

Notice of Allowability

Application No.

10/623,395

Examiner

Timothy J. Kugel

Applicant(s)

HU, MICHAEL Z.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 14 December 2005.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Claims 1-11 are pending as amended on 14 December 2005.

Oath/Declaration

2. Applicant's amendment, filed 17 December 2005, with respect to the submission of a Post Office address has been fully considered and are corrective.

The objection to the oath or declaration has been withdrawn.

Drawings

3. Applicant's argument, filed 14 December 2005, with respect to pointing out the location of the description of reference characters A, B and C has been fully considered and are persuasive.

The objection to the drawings has been withdrawn.

Specification

4. Applicant's amendment, filed 14 December 2005, with respect to the clarification of the references cited and various acronyms has been fully considered and are corrective.

The objection to the specification has been withdrawn.

Double Patenting

5. Applicant's terminal disclaimer, filed 14 December 2005, has been fully considered and is proper.

The rejection of claims 1-7, 10 and 11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4-7, 9, 13, 15-17, 19 and 21-24 of US Patent 6,806,295 (Hu '295 hereinafter) has been withdrawn.

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The rejection of claims 8 and 9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4-7, 9, 13, 15-17, 19 and 21-24 of Hu '295 in view of Hu, Low-Tech Route Yields High-Tech Ceramic Nanopowders, *High-Tech Materials Alert*, Vol. 15, No. 2, February 1998 (Hu 1998 hereinafter) has been withdrawn.

Claim Rejections - 35 USC § 102 and/or 35 USC § 103

6. Applicant's argument, filed 14 December 2005, particularly with respect to the fact that Hu et al., Sol-Gel and Ultrafine Particle Formation via Dielectric Tuning of Inorganic Salt-Alcohol-Water Solutions, *Journal of Colloid and Interface Science*, 222, 20-36, 2000 (Hu 2000 hereinafter), in referring to the production of ZrO₂ and TiO₂ ceramic powders produced in isopropyl-water solutions in which inorganic salt was dissolved, referred to two separate references wherein one discussed the production of ZrO₂ production and the other discussed the production of TiO₂, and that Hu 2000 discusses the production of a single metal oxide using a single salt—i.e. zirconyl chloride—has been fully considered and overcomes the prior art.

The rejection of claims 1-3, 5, 7, 10 and 11 under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Hu 2000 has been withdrawn.

The rejection of claims 8 and 9 under 35 U.S.C. 103(a) as being obvious over Hu 2000 in view of Hu 1998 has been withdrawn.

7. Applicant's argument, filed 14 December 2005, particularly with respect to the fact that Bhattacharya et al., Sol gel preparation, structure and thermal stability of

crystalline zirconium titanate microspheres, *Journal of Material Science*, 31, 267-271, 1996 (Bhattacharya hereinafter) describes the mixing of sols of titania and zirconia rather than solutions of titanium and zirconium salts has been fully considered and overcomes the prior art.

The rejection of claims under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Bhattacharya has been withdrawn.

8. Applicant's declaration under 37 CFR 1.132, filed 14 December 2005, with respect to the fact that Michael Hu—the inventor of the instant application—and Zhong-Cheng Hu—the inventor of Hu '295—are the same person and therefore Hu '295 is not "by another" has been fully considered and disqualifies Hu '295 as prior art.

The rejection of claims 1-7, 10 and 11 under 35 USC 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Hu '295 has been withdrawn.

The rejection of claims 8 and 9 under 35 U.S.C. 103(a) as being obvious over Hu '295 in view of Hu 1998 has been withdrawn.

Allowable Subject Matter

9. Claims 1-11 are allowed.

Conclusion


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
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